

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
First-Class Package Service
First-Class Package Service Contract 49

Docket No. MC2016-116

Competitive Product Prices
First-Class Package Service Contract 49
(MC2016-51)
Negotiated Service Agreement

Docket No. CP2016-147

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE REQUEST TO ADD FIRST-CLASS
PACKAGE SERVICE CONTRACT 49 TO
COMPETITIVE PRODUCT LIST

(April 8, 2016)

The Public Representative hereby provides comments pursuant to Order No. 3208.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Request to add First-Class Package Service Contract 49 to the competitive product list.²

The Postal Service's Request includes a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. § 3633(a), a public (redacted) version of Governor's Decision No. 11-6 and related analysis, a public version of First-Class Package Service Contract 49 , and proposed changes to the Mail Classification Schedule competitive product list with the additions underlined. The Postal Service also filed under seal an unredacted version of Governor's Decision No. 11-6, Contract 49, and supporting financial data.

¹ PRC Order No. 3208, Notice and Order Concerning the Addition of First-Class Package Service Contract 49 to the Competitive Product List, April 1, 2016 (Notice).

² Request of the United States Postal Service to Add First-Class Package service Contract 49 to the Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, April 1, 2016 (Request).

According to the Postal Service, First-Class Package Service Contract 49 is a competitive product featuring rates “not of general applicability” within the meaning of 4939 U.S.C. § 3632(b)(3). *Request* at 1. The Postal Service also maintains that the prices and classification changes applicable to Contract 49 are supported by Governors’ Decision No. 11-6.³ The effective date for Contract 49 is intended to be two (2) business days following necessary regulatory approvals. *Attachment B* at 3. The contract will expire 3 years from the effective date unless either party terminates the contract on 30 days’ prior written notification, or other specific events. *Id.*

COMMENTS

Product List Assignment. Pursuant to 39 U.S.C. § 3642, the Postal Service requests that First-Class Package Service Contract 49 be added to the competitive product list. 39 U.S.C. § 3642 requires the Commission to consider whether “the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products.” 39 U.S.C. § 3642(b)(1). Products over which the Postal Service exercises such power are categorized as market dominant while all others are categorized as competitive.

The Postal Service’s Statement of Supporting Justification (Statement) makes a number of reasonable assertions that address the considerations of section 3642(b)(1). *Attachment D* at 2.

Requirements of 39 U.S.C. § 3633. Pursuant to 39 U.S.C. § 3633(a), the Postal Service’s competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service. Based upon a review of the financial data, the negotiated prices for Contract 49 should generate sufficient

³ Decision of the Governors of the United States Postal Service on Establishment of Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates, March 22, 2011 (Governors’ Decision No. 11-6).

revenues to cover costs during the first year of the contract and therefore meet the requirements of 39 U.S.C. § 3633(a). In addition, while Contract 49 is expected to remain in effect for a period of 3 years, during this period, the contract contains a mechanism for annual price adjustments.

The Public Representative has reviewed the Postal Service's Request, the Statement of Supporting Justification, and the financial data filed under seal with the Postal Service's Request. Based upon that review, the Public Representative concludes that First-Class Package Service Contract 49 should be classified as a competitive product and added to the competitive product list.

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

Curtis Kidd
Public Representative

901 New York Ave. NW
Washington, DC 20268-0001
202-789-6881
Curtis.Kidd@prc.gov